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REMARKS-General

The newly drafted independent claims 15 and 23 incorporates all structural limitations of the original independent claims 1 and 8 and includes further limitations previously brought forth in the disclosure. No new matter has been included. All new claims 15-29 are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

With regard to the rejection of record based on prior art, Applicant will advance arguments to illustrate the manner in which the invention defined by the newly introduced claims is patentably distinguishable from the prior art of record. Reconsideration of the present application is requested.

Regarding to the Qualification of the Sibole (US 767,175) patent as Prior Art under 35USC102

Pursuant to 35 U.S.C. 102, "a person shall be entitled to a patent unless:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.

In view of 35 U.S.C. 102(b), it is apparent that a person shall not be entitled to a patent when his or her invention was patent in this country more than one year prior to the date of the application for patent in the United States.

However, the Sibole patent and the instant invention are not the same invention according to the fact that the independent claim 1 of the Sibole patent does not read upon the instant invention and the newly amended independent claims 15 and 23 of the instant invention does not read upon the Sibole patent too. Apparently, the instant invention, which discloses a basket and a method of making the same, should not be the same invention as the Sibole patent which discloses a jardinière.

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Now, the applicant respectfully identifies the difference between the instant invention and the Sibole patent for the purpose of overcoming the various rejections under 35USC102 as follows:

(a) Referring to the newly amended independent claim 15, Sibole discloses a jardinière comprising a block of wood having a bore formed therein, a pin, and a pan. A shoulder is formed on the inner wall of the bore for suspendedly supporting a flower pot within the jardinière. The instant invention (as amended in claim 15) does not comprise those components recited in Sibole.

(b) Referring to the newly amended claim 15, basket comprises a tree-made portion which has a top surface, a bottom surface, and a portion body for forming an *integral* physical structure as the basket in which a natural contour of the tree trunk constitutes the natural appearance of the portion body. Sibole is *silent* as to these features, particularly an *integral* structure throughout the entire jardinière.

(c) Referring to the newly amended claim 16, the portion body has an inner portion layer and an outer portion layer. Sibole does not disclose that the block of wood A has the identical features as the portion body of the instant invention. In fact, the block of wood in Sibole can be bored to have *only* the bark formed as the outer layer of the jardinière.

(d) Referring to the newly amended claims 17 and 18, Sibole is *silent* as to the handle which is carved from the tree trunk and is integrally extended from the tree-made portion.

(e) Referring to the newly amended claims 19 to 21, Sibole is *silent* as to the imperfection which is the natural imperfection present on the outer surface of the tree trunk.

(f) Referring to the newly amended claim 23, Sibole does not in any way mention a method of manufacturing a basket which comprises a tree-made portion which has a top surface, a bottom surface, and a portion body for forming an *integral* physical structure as the basket in which a natural contour of the tree trunk constitutes the natural appearance of the portion body.

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Response to Rejection of Claims 6 and 13 under 35USC103

The Examiner rejected claims 6 and 13 over Sibole (US 767,175) in view of Barnes (US 3,506,154). Pursuant to 35 U.S.C. 103:

"(a) A patent may not be obtained though the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the differences between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made."

In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)-(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

In other words, the differences between the subject matter sought to be patent as a whole of the instant invention and Sibole which is qualified as prior art of the instant invention under 35USC102(b) are obvious in view of Barnes at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

Thus, the applicant respectfully submits the differences between instant invention and a combination of Sibole and Barnes are, at the time the invention was made, not obvious, due to the following reasons:

(g) Barnes discloses a plastic case for milk bottles in which the plastic case has a plurality handle grip openings for users to carry the plastic case at the grip openings. In other words, Barnes teaches that a handle can be formed by a **forming a grip opening on the plastic case**. It does not, however, teach, motivate, and suggest that a handle can be formed by carving a section of wood as **part** of an integral structure of a basket. One skill in the art may think of many ways of **physically**

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mounting a handle onto the portion body (e.g. a U-shaped plastic handle bar), but these are not compatible with the portion body which resembles the natural appearance of a tree trunk. Moreover, if the grip opening was formed on the tree portion body of the tree-made portion, the entire natural appearance of the basket would be severely destroyed. In fact, there is **no need** for a plastic case to resemble any natural appearance of wooden articles, such as a basket of the instant invention. On the other hand, Sibole does not disclose a handle for the jardinière. The reason may be that Sibole did not envisage that the jardinière should be portable. Thus, it is **unobvious** that the basket comprises a handle which is carved from the tree trunk when one skill in the art has known of the disclosure presented in Sibole and Barnes.

The Cited but Non-Applied References

The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the rejection are requested. Allowance of claims 15-29 at an early date is solicited.

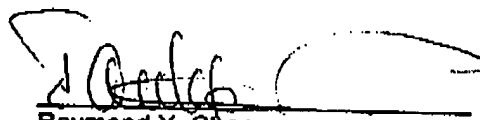
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Should the Examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,




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CERTIFICATE OF MAILING

I hereby certify that this corresponding is being deposited with the United States Postal Service by First Class Mail, with sufficient postage, in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: 6/26/2007

Signature: 
Person Signing: Steven Cheung